MONTANA LEGISLATIVE HISTORY

Chapter 380 1979

Bill H 705 S _____ Original bill & history ✓ C

H. Committee on Judiciary			S. Committee on Judiciary		
Hearing Date(s)	2/15	✓ C	Hearing Date(s)	3/9	✓ C
Bill passed	2/15	✓ C	Bill Passed	3/9	✓ C
		C			C
		C			C
Date Out		C			

Did this bill originate in an interim committee? ___ Yes ✓ No

Committee _____ Report _____

CHAPTER NO. 380

HOUSE BILL NO. 705

INTRODUCED BY YARDLEY, VINCENT, SCULLY

IN THE HOUSE

February 9, 1979	Introduced and referred to Committee on Judiciary.
February 15, 1979	Committee recommend bill do pass as amended. Report adopted.
February 17, 1979	Printed and placed on members' desks.
February 20, 1979	Second reading, do pass as amended.
February 21, 1979	Correctly engrossed.
	Third reading, passed. Transmitted to second house.

IN THE SENATE

February 22, 1979	Introduced and referred to Committee on Judiciary.
March 9, 1979	Committee recommend bill be concurred in. Report adopted.
March 12, 1979	Second reading, concurred in.
March 15, 1979	Third reading, concurred in.

IN THE HOUSE

March 16, 1979	Returned from second house. Concurred in. Sent to enrolling.
	Reported correctly enrolled.

HOUSE BILL NO. 705

INTRODUCED BY VINCENT SULLY

A BILL FOR AN ACT ENTITLED: "AN ACT TO AMEND SECTION 2-3-203, MCA, TO REQUIRE THAT A MEETING OF A SUBCOMMITTEE OF A STATE PUBLIC AGENCY BE OPEN TO THE PUBLIC."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 2-3-203, MCA, is amended to read:

"2-3-203. Meetings of public agencies to be open to public -- exceptions. (1) All meetings of public or governmental bodies, boards, bureaus, commissions, or agencies of the state or subcommittees thereof, or any political subdivision of the state or organizations or agencies supported in whole or in part by public funds or expending public funds shall be open to the public.

(2) Provided, however, the presiding officer of any meeting may close the meeting during the time the discussion relates to a matter of individual privacy and then if and only if the presiding officer determines that the demands of individual privacy clearly exceed the merits of public disclosure. The right of individual privacy may be waived by the individual about whom the discussion pertains and, in that event, the meeting shall be open.

(3) However, a meeting may be closed to discuss a strategy to be followed with respect to collective bargaining or litigation when an open meeting would have a detrimental effect on the bargaining or litigating position of the public agency."

-End-

Judiciary COMMITTEE

46th Legislature

Bill No.	Subject Matter	Date In	Sponsor	Hearing Date	Committee Action	Date Out
HB 701	provide graduated system of fines for speeding etc.	2/9	Rosenthal	2/15	pass-amend	2/15
HB 705	require that a meeting of a subcommittee be open	2/9	Yardley	2/15	pass-amend	2/15
HB 659	fiscal notes on bills having an effect on revenue - local gvt.	2/10	Lory	2/16	do not pass	2/16
HB 670	polls - noon to 8 for drainage district elections	2/10	O'Connell	2/16	pass	2/16
HB 682	to establish the office of county attorney as full-time	2/10	Hand	2/16	pass	2/16
HB 712	filing of liens on motor vehicles - limit number of liens, etc.	2/10	Cooney	2/16	pass	2/16

HOUSE OF REPRESENTATIVES
JUDICIARY COMMITTEE
February 15, 1979

The regular meeting of the Judiciary Committee was called to order at 8:00 by Chairman Scully in room 436 of the Capitol Building. All members were present except Representatives Eudaily and Rosenthal.

HOUSE BILL NO. 678: Representative Pistoria. This bill would allow publicity for the identity of a youth delinquent or in need of supervision and provide the public would not be excluded from court proceedings. Why would I want to introduce this bill. Youth crime has increased and in the past year it is so bat that it is uncontrollable. I strongly campaigned on this issue. I was appointed to a crime control board and I still serve on it.

There was little discussion and no questions and the hearing closed on House Bill No. 678.

HOUSE BILL NO. 691: Representative Harrington. This bill would provide prepaid legal services for small corporations. They would pay an annual fee. It would also regulate the activities of such corporations.

DONALD C. Rdison: Prepaid Legal Protective Plan. I am an attorney from Butte. This bill was killed in the Senate last session. I am in support of this bill, for several reasons. First, I was the attorney representing the employer for the Teamsters Union. I also represented a nursing group of a hundred people. I am presently the chairman of a non-profit corporation sponsored by the state bar of Montana. One of the things we are ignoring in our society is the lack of preventive legal services. There is an old adage that a first rate legal mind avoids problems. We would submit that legal services, if delivered at an early stage, there would be less overall cost to the consumer. He gave several other reasons why he supported the bill. This would avoid the traumatic and catastrophic legla problems that could come up We could have prepaid legal services as a fringe benefit. They are sometimes established voluntarily by some corporations, such as a credit union. The need for this legislation is very urgent. The program in Butte is still in the formative stage. This legislation would not impose a cost obligation on the state and it does not endorse a policy by the state.

LES LOBLE: Prepaid legal Protection Plan. I have been talking with the Insurance Commissioner and they are concerned about the cost to that office. I do think we are going to see a giant explosion. I think this will move slowly. The concept has always been that it will pay its way.

if you examine the history of the disciplinary procedure as a whole, you would agree. He mentioned and discussed several cases that have resulted in disciplinary action. We do not have any history of action brought by the board that was not justified.

Representative Keyser asked how many had been revoked or suspended in the last two years. Mr. Lendorf said he thought there had been 10 in the last four years.

No further discussion and the hearing closed on House Bill No. 697.

HOUSE BILL NO. 705: Representative Yardley. This bill was not introduced for a substitute for any other bill. All meetings of any state agency, board, or bureau must be open to the public.

MIKE MELOY: Lee Newspapers and the Montana Press Association. During the interim I would get calls from people that were turned out of a meeting. The most common method used by public bodies to avoid the law, is to form a subcommittee. It is really ironic that they would be doing that because the reason originally was to let people attend. He discussed how a quorum is used to avoid opening a meeting to the public, and gave examples of cases where that has happened. He also gave an example of a case where 3 or 5 members would hold a meeting without telling the other two members. The last section in the bill probably does more than you want to do. We have a proposed amendment which says that a public body may not appoint a subcommittee for acting on the jurisdiction unless covered by the statute. He gave an example of a situation which might not be covered.

WAYNE BUCHANAN: Montana School Boards Association. Contra to reports in the press the vast majority of school boards are not interested in getting around the open meeting law. We have recommended that each school district in the state embrace both the word and the intent of the open meeting law. We are recommending an amendment.

RON SEMPLE: Montana Press Association. I think this bill would effectively close a loop hole. I think that the amendments are reasonable.

REPRESENTATIVE YARDLEY: I have only point in mind, and that is to have any subcommittee meeting be open to the public. Without this amendment the open meeting law will become almost useless.

Representative Keyser asked if this language in here is much the same as a previous bill that was killed in committee.

Mr. Yardley replied, I do think that its very similar to the previous bill.

The hearing closed on House Bill 705 with no further discussion.

HOUSE BILL NO. 701: Representative Rosenthal. I am seriously proposing this bill for two reasons. There has been a lot of talk about raising the speed limit. Currently, Montana average speed limit is 62 miles per hour, and one purpose is to get people to comply with the present law and second it is to pay for the cost of the ticket. He gave the statistics for writing tickets. What I am trying to do is raise the fines for speeding gradually in steps.

ALBERT GOLK: Highway Safety, Department of Community Affairs. I want to leave this material with the committee. He passed a handout to the members. I have tried to relate to you what has happened since the decrease in speed. There are a number of people who are ovbisouly not observing the 55 mile speed limit. What that relates to is that the state could be in a financial situation by the end of the year. The penalty for the first two years would be only 5%. I think we are far from a secure position as it relates to federal funds. I think the 55 mile speed has done a lot for our state in terms of death reduction.

JOE SOL: Highway Patrol. I would like to talk about the enforcement aspects. We have tried to zealously enforce the 55 mile speed. It will assist us in that the individual motorist would have some incentive to comply with the 55 speed. It does address the dirver history. It will go a long way with assisting us in adjusting our activity.

JIM BECK: Highway Department. I am here primarily for information purposes. We get 100 million dollars a year. If we get into a penalty provision we could lost 5%. This bill could help get extra money.

JERRY DOVER: I am here as a concerned citizen. He gave a series of statistics about consumer energy savings. He said that Americans have been lied to, and so they deny, deny, deny and indulge, and then resist sacrifice for immediate gratification. He said we used 10.69 million barrels of oil in 1976. He compared average speeds and the amount of consumption and what the savings would be in energy. He gave the fuel statistics at 55 rather than 70 miles per hour.

Judiciary Committee
Executive Session
February 15, 1979

Following the regular meeting of the House Judiciary Committee the members went into executive session in room 436 of the Capitol Building at 9:40 a.m. All members were present except Keedy, Kemmis, Eudaily and Daily. Representatives Keedy, Kemmis and Daily came in later.

HOUSE BILL NO. 678: Representative Conroy moved "do pass" Representative Anderson felt that the proceedings should be kept closed. The motion carried with Representatives Anderson, Keyser, Scully, Iverson, Lory and Uhde voting "no".

Representative Keedy came in just as the vote was counted and asked that the committee move to reconsider action taken on the bill. The motion carried with the vote unanimous.

Representative Keedy moved to amend lines 17, 18, 19 and 20 and reinsert them up through the word "felony", to add some language and leave the rest of the language out. Insert "the general public", following line 21. He spoke to the motion. I think he has a point but I think there is a legitimate need for privacy in some cases and I think the interest of privacy in those kinds of cases often outweigh. There is a need for public disclosure and accountability and I think it would totally dismantle the bill. After further discussion among Mr. Keedy and the other members he withdrew his motion.

Representative Conroy told of a case he was familiar with. The original motion was now back on the table, and the question called and the motion failed on a vote of 9 to 7. Representative Lory moved "do not pass" and the motion carried by 9 to 7.

HOUSE BILL NO. 691: After discussion about the bill Representative Kemmis stated that they did have rule-making authority on page 10.

Representative Roth moved "do not pass".

Representative Keyser moved to postpone consideration for a fiscal note and a statement of intent. The motion carried to pass for the day.

HOUSE BILL NO. 693: Representative Lory moved "do pass". The comment was made to amend but they would do it on the floor. The motion "do pass" carried with the vote unanimous.

HOUSE BILL NO. 697: Representative Day moved "do pass".

The motion carried with the vote unanimous. Representative Day moved to place the bill on the consent calendar. Representative Scully voted "no". The bill will not go on the consent calendar.

HOUSE BILL NO. 699: Representative Lory moved "do pass". The motion carried with the vote unanimous.

HOUSE BILL NO. 705: Representative Keyser moved to amend on line 13, strike language and insert a new subsection (4). The motion carried with the vote unanimous.

Representative Keyser moved to "do pass as amended". The motion carried with Representatives Roth, Conroy, Pavalavich and Teague voting "no".

HOUSE BILL NO. 701: Representative Keedy moved to amend, page 1, line 16 and change the amounts of the fines. The motion carried with the vote unanimous. (copy attached) There was considerable discussion about the amounts before an actual amount was agreed on for each section.

Representative Seifert moved to amend page 2, line 6, and strike highway fund and insert general fund. After discussion about earmarked funds and highways generally and condition of highways he withdrew his motion.

Representative Day moved to amend by inserting primary roads in place of highway funds. After discussion he withdrew his motion.

The motion was made to "pass as amended" and carried with the following Representatives voting "no". Representatives Teague, Day, Conroy, Iverson, and Seifert.

HOUSE BILL NO. 560: The sub-committee report was given by Representative Kemmis who had served as chairman. He presented each of the amendments in turn and they were approved by the full committee. He said there was no recommendation from the sub-committee.

Representative Seifert moved "do not pass as amended". The motion carried with Representative Keedy voting "no".

There was no further business and the meeting adjourned at 10:50 a.m.

John P. Scully, Chairman

JPS:mec

Forty-Sixth LEGISLATIVE SESSION

COMMITTEE ON Judiciary - Senate

BEST COPY AVAILABLE

BILL NO.	ENTERED COMM.	DATE CONSIDERED	OUT OF COMM.	DO PASS DATE	DO NOT PASS DATE	DO PASS AS AMEND. DATE	BE CONCURRED IN DATE	BE CONC. IN AS AMENDED DATE	BE NOT CONCURRED IN DATE
HB 444	2/19/79	3/8/79	3/8/79				3/8/79		
HB 468	2/19/79	3/8/79	3/8/79				3/8/79		
HB 500	2/20/79	3/13/79	3/15/79					3/13/79	
HB 518	2/20/79	3/7/79	3/7/79						3/7/79
HB 521	2/20/79	3/12/79	Transferred 3/12/79					3/19/79	
HB 573	2/20/79	3/8/79	3/8/79				3/8/79		
HB 592	2/20/79	3/9/79	3/9/79					3/9/79	
HB 699	2/20/79	3/16/79	3/16/79					3/16/79	
HB 712	2/20/79	3/14/79	3/14/79					3/14/79	
HB 673	2/21/79	3/8/79	3/8/79					3/8/79	
HB 705	2/22/79	3/9/79	3/9/79				3/9/79		
HB 719	2/22/79	3/12/79	3/13/79						3/13/79
HB 737	2/22/79	3/12/79	3/14/79					3/14/79	
HB 813	2/22/79	3/14/79	3/20/79					3/19/79	
HB 401	2/23/79	3/15/79	3/15/79						3/15/79
HB 487	2/23/79	3/15/79	3/12/79					3/16/79	

Use a separate sheet for Senate, House Bills, and Resolutions.

MINUTES OF MEETING
SENATE JUDICIARY COMMITTEE
March 9, 1979

The fifty-fifth meeting of the Senate Judiciary Committee was called to order by Senator Everett R. Lensink in room 331 of the capitol building on the above date at 9:32 a.m.

ROLL CALL:

All members were present.

CONSIDERATION OF HOUSE BILL 697:

This is an act to revise and clarify the procedure for revocation or suspension of medical licenses and to provide venue in Lewis and Clark County, etc. Representative Day gave an explanation of this bill.

Jerome Loendorf, representing the Montana Medical Association, gave a statement in support of this bill. He said that this would save the board money and he said that all the cases have been heard here except one and that cost $40,000.00. He said there is considerable expense to move records, staff, court reporters , etc.

There were no further proponents and no opponents.

Senator Brown questioned if there were any objections to amending this to change the venue if both parties would agree it could be held elsewhere. Mr. Loendorf stated that he had no objection to that.

There being no further questions or comments, the hearing was closed.

CONSIDERATION OF HOUSE BILL 368:

This is an act to revise the reporters' confidence act, etc. Representative Ann May Dussault gave an explanation of this bill.

Mike Meloy, representing the Montana Press Association and the Lee Newspapers, stated that this bill is designed to correct the paradox which occurred when the district court opinion said that this act only protects the reporter. He stated that it is difficult to know when information

belongs to the news agency and when it belongs to the reporter. He stated that all tape recorders are the property of the news agency and he says that the present law only protects the reporter and if he discusses that information with his boss, the boss can be made to testify.

Bill Merrick, representing the Montana Broadcasters, gave a statement in support of this bill. He said that the type of equipment that is needed cannot be afforded by the reporter themselves.

There were no further proponents and no opponents.

There being no questions or comments, the hearing on this bill was closed.

CONSIDERATION OF HOUSE BILL 705:

This is an act to amend section 2-3-203, MCA, to require that a meeting of a subcommittee of a public agency be open to the public. Representative Yardley stated that this amends the open meeting law and that if an agency wants to keep anything private that the best way to do it is to have a subcommittee.

Hal Stearnes, representing the Montana Press Association, stated that there have been many subterfuges to keep the public knowing from what is going on. He stated that he thought this would close a loophole.

Wayne Buchanan, representing the Montana School Boards Association, proposed an amendment and stated that he would like to speak on the amendment. He stated that first of all, it has to be a committee appointed by the public agency. He said this would prevent the casual meeting of the school board and they felt that this was a good bill and hope to get a do pass.

Mike Meloy, representing the Lee Newspapers and the Montana Press Association gave a statement in support of this bill.

Bill Merrick, representing the Montana Broadcasters Association, said they supported this bill.

Senator Turnage asked what the present state of the law is and Mr. Meloy stated that under district court, the report shield law only applies to the reporter - it does not apply to his boss. He said that if a reporter gives information to his boss, his boss can be required to produce it and; he said that information that is on tapes belongs to the business as the tapes belong to the business.

Senator Brown moved that the bill be concurred in. The motion carried unanimously.

DISPOSITION OF HOUSE BILL 705:

Senator Van Valkenburg moved that the bill be concurred in. The motion carried unanimously.

DISPOSTION OF HOUSE BILL 836:

Senator Towe stated that this bill does not do what they intended it to do - not at all. He said that he would like to eliminate strict liability in this bill and he gave an example of a person drinking who is injured. He stated let's put contributory negligence back into the bill the way it ought to be. He further said that he found sections 8 and 9 most objectionable and what they really meant was limited liability to the passenger.

Senator Brown suggested that they read the Sunday case, as he would really like to know all the facts.

Senator Lensink said that slopes are not suppose to be as smooth as a billard table and ski areas cannot be expected to do that.

Senator Towe said that he is a little bothered about hidden hazards - if they know about it, they should mark the area. Senator Van Valkenburg stated that he would be more comfortable with the bill if it said that the assumption of risk applies to downhill skiers.

Senator Towe said that if an individual comes along in a ski area and they left a high stump, it snowed and some skier came plowing into that, that they should have some liability.

Date 3/6/79

ROLL CALL

JUDICIARY COMMITTEE

46th LEGISLATIVE SESSION - 1979

NAME	PRESENT	ABSENT	EXCUSED
Lensink, Everett R., Chr. (R)	✓		
Olson, S. A., V. Chr. (R)	✓		
Turnage, Jean A. (R)	✓		
O'Hara, Jesse A. (R)	✓		
Anderson, Mike (R)	✓		
Galt, Jack E. (R)	✓		
Towe, Thomas E. (D)	✓		
Brown, Steve (D)	✓		
Van Valkenburg, Fred (D)	✓		
Healy, John E. (Jack) (D)	✓		

Each Day Attach to Minutes.

HOUSE BILL NO. 705

INTRODUCED BY YARDLEY, VINCENT, SCULLY

A BILL FOR AN ACT ENTITLED: "AN ACT TO AMEND SECTION 2-3-203, MCA, TO REQUIRE THAT A MEETING OF A SUBCOMMITTEE OF A STATE PUBLIC AGENCY BE OPEN TO THE PUBLIC."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 2-3-203, MCA, is amended to read:

"2-3-203. Meetings of public agencies to be open to public -- exceptions. (1) All meetings of public or governmental bodies, boards, bureaus, commissions, or agencies of the state ~~or subcommittees thereof~~, or any political subdivision of the state or organizations or agencies supported in whole or in part by public funds or expending public funds shall be open to the public.

(2) Provided, however, the presiding officer of any meeting may close the meeting during the time the discussion relates to a matter of individual privacy and then if and only if the presiding officer determines that the demands of individual privacy clearly exceed the merits of public disclosure. The right of individual privacy may be waived by the individual about whom the discussion pertains and, in that event, the meeting shall be open.

(3) However, a meeting may be closed to discuss a strategy to be followed with respect to collective bargaining or litigation when an open meeting would have a detrimental effect on the bargaining or litigating position of the public agency.

(4) ANY COMMITTEE OR SUBCOMMITTEE APPOINTED BY A PUBLIC BODY FOR THE PURPOSE OF CONDUCTING BUSINESS WHICH IS WITHIN THE JURISDICTION OF THAT AGENCY SHALL BE SUBJECT TO THE REQUIREMENTS OF THIS SECTION."

-End-

REFERENCE BILL